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JUN 04 1990

WATER RIGHTS  
SECTION

**JOSEPH HARLAN BURNS**

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District Court  
Judge, Retired  
(1971-1988)

May 22, 1990

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS  
1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3156  
Robert L. Morgan, P.E., State Engineer

ENGINEER-STATE WATER  
585 North Main  
Cedar City, Utah 84720  
Gerald W. Stoker, Area Engineer

Re: Newcastle Reservoir Co./  
Grass Valley Pinto  
Diversion tunnel

Gentlemen:

I have been contacted by Mr. Richard Jones, President and Mr. Boyd Christensen Secretary of the Newcastle Reservoir Co. with respect to your letter of May 9, 1990 and the subsequent action taken thereto concerning the Newcastle Reservoir gates. On the basis of your letter ( May 9 ,1990) and the facts they related I could give them no answers except to indicate I would make this inquiry to you gentlemen.

As I understand the facts they include the following, to wit:

a) Newcastle Reservoir has been entitled to their right to use the subject water for some 83 years.

b) No use has been made of the claim referred to in your letter for that period of time and in fact no effort to use the water in the proposed fashion has been exerted or claimed heretofore.

c) There is no ditch, natural channel, or other means of conveyance of the water from New Castle Reservoir to the Santa Clara River system and that such diversion as referred to in your letter will result in a non-beneficial seepage of water without

means of transportation.

As stated above these are the facts provided to me and you may wish to elaborate on them or counter the assertions made. On the other hand, to educate me as to your position in behalf of the State Engineers office and the Santa Clara River System people please give me your version of the facts applicable and the controlling law.

In the meantime you may rest assured that no action will be taken that would necessitate court action on your behalf to enforce your directive.

Sincerely

JOSEPH HARLAN BURNS

cc: Michael Quealy, Assistant Attorney General  
Lee Sim, Distribution Engineer  
Rodney Leavitt, Water Commissioner  
Reed Mathis, Santa Clara River Water Users Chairman  
Mr. Richard Jones, President, Newcastle Reservoir Co.  
Mr. Boyd Christensen, Secretary, Newcastle Reservoir Co.